PTO/SB/25 (08-03)

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## TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION

Docket Number (Optional) P-088-US3

In re Application of: Leadbetter et al.

Application No. 10/669,778

Filed: September 24, 2003

For: GLYCOPEPTIDE PHOSPHONATE DERIVATIVES

The owner\*, Theravance, Inc. of 100 percent Interest in the Instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the Instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 10/226,428, filed on August 23, 2002, of any patent on the second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. 🔲	For submissions on behalf of an organization (e.g., corporation, partnership, university, government	agency,
	etc.), the undersigned is empowered to act on behalf of the organization.	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney of record.

Jeffrey A. Hagenah, Reg. No. 35,175

Typed or printed name

(650) 808-6406

Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of Information Is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggostions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patente, P.O. Box 1450, Alexandria, VA22313-1450.

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PTO/SBJ17 (10-03)

Approved for use through 07/31/2006, OMB 0551-0032

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FEE TO ALIONALTTAL			Complete If Known						
FEE TRANSMITTAL				Application Number 10/689,778					Ì
	Filing Date September 24, 2003								
for FY 2004				First Named Inventor   Michael R. Leadbetter et al.			et al.		
Effective 10/01/2003. Patent fees are subject to annual revision.							Jeffrey E. Russel		
Applicant claims small entity status. See 37 CFR 1.27				Art Unit 1654			•		
TOTAL AMOUNT	OF PAYMENT (\$) 110		Attorne	y Dock	et No.	P-08	8-US3		
METHO	DD OF PAYMENT (check all that appl	VI				FEE C	ALCULATION (co	ntinued)	
			3. ADDITIONAL FEES						
☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None Order  ☑ Deposit Account:			Largo	Entity	Small	intity		:	1
l - ·			Fee Code	Fee (\$)	Fee Code	Foo (\$)	Fee De	scription	Peo Paid
Deposit Account	50-0344		1051	130	2051	65	Surcharge - late	filing fee or oath	
Number			1052	50	2052	25	Surcharge - late or cover sheet.	provisional filing fee	
Deposit Account	Thoroxonco Inc		1053	130	1053	130	Non-English spe		
Name	Theravance, Inc.		1812 1804	2,520 920°	1812	2,520		est for reexamination	
The Director is autho	The Director is authorized to: (check ell that apply)				1804	920*	Examiner action	;	°
Charge any addition	eted below 🛛 Credit any overpay mal fee(s) during the pendency of t	his application	1806	1,840*	1805	1,840*	Requesting publi Examiner action	ication of SIR after;	
Charge fee(s) indiction to the above-identified	ated balow, except for the filing t	ee	1251	110	2261	55	Extension for reg	oly within first month	
to the above-loantilled	FEE CALCULATION	· · ·	1252	420	2252	210	Extension for rep month	oly within second	
1. BASIC, FILIN	IG FEE		1253	960	2263	475		ply within third month	'
	all Entity		1254	1,480	2254	740	Extension for rep month	ply within fourth	
Fee Fee Fee Code (\$) Code	Fee <u>Fee Description</u> e (\$)	Fee Paid	1255	2,010	2256	1,005	Extension for rep	ply within fifth month	
1001 770 2001			1401	330	2401	165	Notice of Appea	•	
1002 840 2002	170 Design filing fee		1402	330	2402	165	•	support of an appeal	
1003 530 2003			1403	290	2403	145	Request for oral Petition to institu		
1004 770 2004 1005 160 2005			1451	1,510	1451	1,510	proceeding	rea a public use	
1005 100   2005	TOVISIONAL IMMING IOO	<u></u>	1452	110	2452	55	Petition to revive		
	SUBTOTAL (1)	(\$) 0	1453	1,330	2453	665	Petition to revive	:	
2. EXTRA CLAIM	FEES FOR UTILITY AND RE	ISSUE	1501 1502	1,330 480	2501 2502	655 240	Utility issue fee ( Design Issue fee		
	Extra Fee from	Fee	1503	640	2503	320	Plant issue fee		
Total Claims	-o •• ⊨ Claims below 18	Paid = 0	1460	130	1460	130	Petitions to the (	Commissioner :	
Independent		╡╹╠═╣	1807	50	1807	50	Processing fee u	inder 37 CFR 1.17 (	q)
Claims	-3** = 0 X 86	= 0	1806	180	1808	180	Submission of in Strat	nformation Disclosur	9
Multiple Dependent	X 290	= 0	8021	40	8021	40	Recording each per property (time properties)	patent assignment les number of	
Fee Fee F	Small Entity  oe Fee Fee Description  ode (\$)		1809	770	2809	385		ion after final rejection	on
1202 18 2	202 9 Claims in excess of		1810	770	2810	385		nal Invention to be	
	201 43 Independent claims 203 145 Multiple dependent		1801	770	2801	385		ued Examination (RCI	<sub>E)</sub>
1204 86 2	204 43 ** Relssue independent	dent claims over	1802	900	1802	900	Request for exped	ited examination	
1205 18 2	205 9 ** Reissue claims in over original patent						of a design applic	Blion	
1	Other fee (specify) Statutory Dislatmer (37 CFR 120(d)) Fee Code:1814 110							110	
SUBTOTAL (2) (\$) 0					l- ==1	. e i	inte ous	OTAL CA	40
**or number previously paid, if greater; For Relssues, see above						y ree F	aid SUBT	OTAL (3) (5) 1	10
SUBMITTED BY Complete (If epplicable)									
Name (Print/Type)	Jeffrey A. Hagenah	Registration No. (Attorney/Agent)		35	5,175		Telephone	(650) 808-6	406
Signature	501/ _ A M	1	$\sim$	<b>5</b>			Date	9/14/0	4

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PTO/SB/17 (10-03)

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THE WOLLOW TAKE	Complete If Known						
FEE TRANSMITTAL	Application Number 10/669,778						
for FY 2004	Filing Date			Septe	September 24, 2003		
10111 2004					hael R. Leadbetter et al.		7
Effective 10/01/2003. Petent fees are subject to annual revision.					y E. Russel		
Applicant claims small entity status. See 37 CFR 1.27				1654	y 2		
TOTAL AMOUNT OF PAYMENT (\$) 110	D 000 11				LUS3		
TOTAL AMOUNT OF FATHERS   (\$) 110	Allumey booker no.						
METHOD OF PAYMENT (check all that apply)	FEE CALCULATION (continued)  3. ADDITIONAL FEES						
☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None Order	Large Entity Small Entity						
☑ Deposit Account:	Fee	Fee	Fee	Fee			Fee Paid
Deposit	Code	(\$)	Code	<b>(\$)</b>	•		Pae Pais
Account Number 50-0344	1051 1052	130 50	2051 2052	65 25		provisional filing fee	
Donneit	1053	130	1053	130	or cover sheet. Non-English spec	Heating	$\vdash$
Deposit Account Theravance, Inc.	1812	2,520	1812	2,520	• .	st for reexamination	
Name	1804	920*	1804	920*		cetion of SIR prior to	
The Director is authorized to: (check all that apply)  ☑ Charge fee(s) Indicated below ☑ Credit any overpayments ☑ Charge any additional fee(s) during the pendency of this application	1805	1,8404	1805	1,840*		cation of SIR after	
Charge fee(s) indicated below, except for the filing fee	1251	110	2251	55	Extension for rep	ly within first month	
to the above-identified deposit account.  FEE CALCULATION	1252	420	2252	210	Extension for rep month	ly within second	
1. BASIC FILING FEE	1263	950	2253	475	Extension for rep	ly within third month	
Large Entity Small Entity	1254	1,480	2254	740	Extension for rep	ly within fourth	
Fee Fee Fee <u>Fee Description</u> Code (\$) Fee Paid	1255	2,010	2255	1,005	-	ily within fifth month	
Code (\$) Code (\$) Fee Pald	1401	330	2401	165	Notice of Appeal		
1002 340 2002 170 Design filling fee	1402	330	2402	165	Filing a brief in a	upport of an appeal	
1003 530 2003 265 Plant filing fee	1403	290	2403	145	Request for oral	hearing	
1004 770 2004 385 Relssue filing fee	1451	1,510	1451	1,510	Petition to Institution proceeding	te a public use	
1005 180 2005 80 Provisional filling fee	1452	110	2452	55	Petition to revive	~ unavoidable	
SUBTOTAL (1) (\$)0	1453	1,330	2453	665	Petition to revive		
A RIVER OF ANY PERO CONTINUES AND DESCRIP	1501	1,330	2501	665	Utility Issue fee (	· · · · · · · · · · · · · · · · · · ·	
2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE  Extra Fee from Fee	1502	480	2502	240	Design issue fee		$\vdash$
Claims below Pald	1503 1460	640 130	2503	320 130	Plant issue fee Petitions to the C	amminelanes	
Total Claims 0 X 18 a 0	1807	50	1807	50		inder 37 CFR 1.17 (q)	.
Indopendent Cleims = 0 X 88 = 0	1806	180	1808	180	-	formation Disclosure	
Multiple Dependent  X 290 = 0	8021	40	8021	40		patent assignment es number of	
Largo Entity Small Entity Fee Fee Fee Fee Description	1809	770	2809	385	Filing a submissi	lon after final rejection	1
Code (\$)   Code (\$)   Example 1511   Code (\$)   Code	1810	770	2810	385		nal Invention to be	
1201 88 2201 43 Independent claims in excess of 3 1203 290 2203 145 Multiple dependent claim, if not paid	1,004	770	200-	201	examined (37 Ci	FR § 1.129(b)) ued Examination (RCE)	
1204 RB 2204 43 ** Reissue independent claims over	1801	770	2801	385	•		' <u> </u>
onginal patent  ** Relievae claims in excess of 20 and	1802	900	l 1802	90Ĉ	Request for exped of a design applica	ation	
1205 18 2205 9 Over original patent	Other	fee (spec	:Hy) <u>Statı</u>	tory Dis	laimer (37 CFR 12	0(d)) Fee Code:1814	110
SUBTOTAL (2) (5) 0	*Reduced by Basic Filing Fee Pald SUBTOTAL (3) (\$) 110						
"or number previously paid, if greater, For Reissues, see above							<u> </u>
SUBMITTED BY					Com	plete (if applicable)	
Name (Print/Type)  Jeffrey A. Hagenah  Registration No. (Altorney/Agent)	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1			(650) 808-64			
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